



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/588,863

10/23/2007

Ziv Neeman

11613.0061USWO

4074

45074 7590 10/07/2008
NATIONAL INSTITUTES OF HEALTH
P. O. BOX 2903
MINNEAPOLIS, MN 55402

EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,863	Applicant(s) NEEMAN ET AL.	
	Examiner MICHAEL G. MENDOZA	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/9/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 102

2. Claims 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ravenscroft et al. 6007558.

3. Ravenscroft et al. teaches venous filter comprising at least two struts (36), each having a connected and a non-connected end (fig. 4), wherein each of said struts comprises a temperature sensitive portion (28) and an anchor portion (struts are capable of anchoring the filter to the vessel via the force exerted on the vessel wall by expansion); a head (12), wherein said head connects said connected ends of said struts (fig. 4); wherein said anchor portion is separated from said temperature sensitive portion at least in part by changing the temperature around at least said temperature sensitive portion (col. 6, lines 9-24); wherein the temperature sensitive portion is nitinol (col. 5, lines 36-40)

4. Claims 8, 9, 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Connell 6267776.

5. O'Connell teaches a venous filter comprising a web (703) comprising a dissolvable material; and at least two anchors (702 + 708), wherein said at least two

Art Unit: 3734

anchors are configured to retain said web within a mammalian blood vessel (see fig. 29); wherein the dissolvable material comprises polyglycolic acid; wherein the filter dissolves in stages based upon the chemical solubility of the web components (col. 14, lines 7-21); wherein the filter dissolves in stages, the filter dissolution starting at the filter center and concluding at the filter periphery (O'Connell teach that the retainer dissolves first (center) then the filter (periphery) dissolves at a slower rate, col. 14, lines 7-21); wherein the filter has a shape selected from the group consisting of a web, a spiral, and a conical shape.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

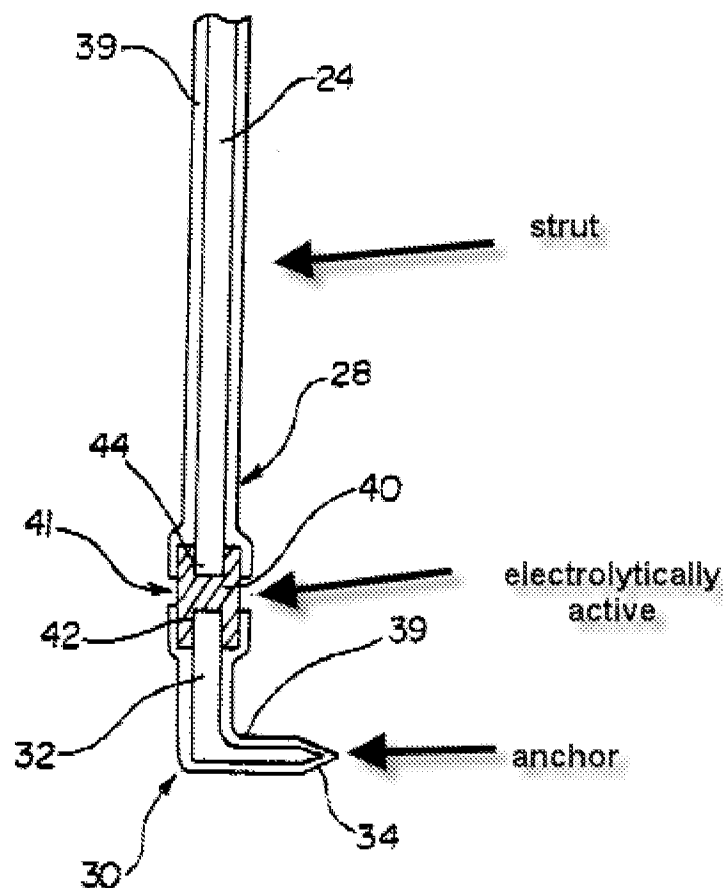
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1-5 rejected under 35 U.S.C. 103(a) as being unpatentable over DeVries et al 6342063.

8. Devries teaches a venous filter comprising at least two struts each having a connected end and a non-connected end, wherein each of said struts further comprises a strut portion and an anchor portion (see fig. 1), and wherein said strut portion and said anchor portion are attached; and a head, wherein said head connects said connected ends of said struts, wherein said strut portion can be separated from said anchor portion at least in part by the application of an electrical current (col. 7, lines 1-7); and wherein has a shape consisting of a web, a spiral and a conical shape.

Art Unit: 3734

9. It should be noted that O'Connell fails to specifically teach a thread. However, O'Connell teaches several other means for connecting the strut portion to the anchor. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a thread as an alternative means for connecting the struts and anchors.



10. Claims 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell.

11. O'Connell teaches the claimed invention except for the claimed dissolvable material. It would have been obvious to one having ordinary skill in the art at the time

Art Unit: 3734

the invention was made to use the any of the claimed materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claim 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell in view of WasDyke 6972025.

13. O'Connell teaches the venous filter of claim 8. It should be noted that O'Connell fails to teach wherein the filter dissolves in stages based on thickness. O'Connell teaches that the filter dissolves in stages to different materials.

14. WasDyke teaches a venous filter of a bioabsorbable material wherein the support members thickness can be altered to impart particular characteristics (col. 4, lines 39-42). It is known that a thinner section of bioabsorbable material would biabsorb more quickly than a thicker piece. Therefore, it would have been obvious to modify the filter of O'Connell to have varied thickness in view of WasDyke to come to same staged results as using different materials having different dissolving rates.

15. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell in view of Yadav et al. 6391044

16. O'Connell teaches the venous filter of claim 9. It should be noted that O'Connell fails to teach wherein the dissolvable material comprises one piece of material that is spiraled. O'Connell teaches dissolvable struts with a web.

17. Yadav et al. teaches a common filter with strut and a web. Yadav et al. also teaches an alternative to struts and a web being a spiral with a web (see fig. 10).

Art Unit: 3734

Therefore it would have be to one having ordinary skill in the art at the time the invention was made to modify the filter of O'Connell to include the spiral in view of Yadav et al. as an alternative to struts of O'Connell.

18. O'Connell/Yadav teaches the venous filter of claim 12, further comprising other pieces of dissolvable material (110) that crosslinks the spiraled piece of dissolvable material (see fig. 10, Yadav).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731